



Institutional Controls at Open and Closing Air Force Bases in California

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Outline

- History of ICs at Air Force Bases in California
- Current status of IC ROD language for Open and Closed Bases in California
- Lessons Learned

History

- 2003 National dispute with the Air Force regarding EPA's post-ROD authority
 - IC implementation, reporting and enforcement was an issue
- April 2003, EPA invoked formal dispute regarding ROD at closing Air Force Base in California
 - State LUC and IC post ROD documentation were issues
- December 2004, State invokes formal dispute at Castle
 - State reimbursement of IC oversight costs was the issue
- 2003 State of California Land Use Control regulation
 - http://www.dtsc.ca.gov/LawsRegsPolicies/Regs/LUC_regs.cfm



March AFB 2003 Formal Dispute IC Issue Resolution

- ICs would be detailed in the ROD and no post-ROD IC implementation Plan was required
- Portions of the State LUC regulation were ARARs
- Air Force agreed to sign State LUC
- The Air Force would provide IC monitoring reports to the Agencies



Castle AFB 2004 Formal Dispute IC Issue Resolution

- The State of California, with the support of EPA, invoked formal dispute in December 2004 over LUCs
- The Air Force unilaterally signed the ROD in March 2005
- The issue was raised to the SEC and settled with agreement that the IC oversight costs would be a condition of sale and paid by the transferee
 - Costs were estimated by the State at \$ 3000/year



Current Status of IC Language

- Norton AFB closing site ROD signed September 2005. ROD included IC language for BRAC bases in California
 - Handout dated September 2005
- March AFB Reserve ROD signed September 2005. ROD included IC language for open bases in California
 - Handout dated September 26, 2005



IC language – AF Closing Bases

- The Air Force is responsible for implementing, maintaining, and monitoring ICs before and after property transfer
- Deeds will contain provisions to ensure ICs run with the land

IC Language Closing Base – cont.

- Prior to transfer, the Air Force will:
 - conduct annual monitoring and provide report to evaluate status and IC deficiencies
 - notify EPA and the State within 10 days after discovery of any activity inconsistent with IC
 - notify EPA and State within 10 days of notification how breach will be addressed
 - not modify or terminate IC without approval of EPA and DTSC

IC Language Closing Bases – cont.

- As a condition of transfer, the transferee will:
 - conduct inspections and submit annual reports
 - If transferee fails to satisfy obligations under the SLUC, DTSC may enforce
 - State will notify EPA and the Air Force of violation within 14 days
 - Parties shall meet within 21 days of notification to discuss actions to address the failure
 - If State reports that transferee is unwilling or unable to mitigate failure, the Air Force will have 10 days to inform parties of measures it will take



Summary of IC language – Open Base

- The AF shall advise recipient of Federal Land of ICs and obligation to sign LUC
- The signed deed will include the ICs as reflected in the ROD and State LUC
- AF will provide EPA with at least 6 months notice prior to transfer or sale of base
- AF shall provide EPA and the State with a copy of the deed
- ICs will be included in the Base Master Plan and reported annually



Lessons Learned

- IC language needs to be very specific in the ROD; AF unwilling to include ICs in post ROD enforceable documents
- Violations of ICs have already occurred; it was very important to have procedures spelled out in enforceable document
- Future land owners do not want to enter into State LUC agreements
- Costs associated with oversight of LUCs are minimal, but transferees do not want to pay